



2025-2026 General Assembly

SENATE BILL 445: Regulatory Reform Act of 2026, Sec. 29: Recognition of Combined Wastewater Capacity; Compliance Review for Large On-Site Wastewater Systems.

Analysis of: S.L. 2026-59, Sec. 29

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Section 29(a) of S.L. 2026-59 (Senate Bill 445) requires the Department of Environmental Quality (DEQ) and the Department of Health and Human Services (DHHS) to recognize combined treatment and disposal capacity for a wastewater facility where effluent is discharged, in whole or in part, through a DEQ permit and, in whole or in part, through a DHHS permit. Among other things, the section further provides:

- Each discharge or disposal remains subject to the substantive permitting authority, standards, and rules of the department and commission with jurisdiction over that discharge or disposal, and neither permitting authority can encroach upon, assert, or exercise the jurisdiction or enforcement authority of the other. The permitting, compliance, inspection, and enforcement authority of each permitting authority is limited to the portions of the facility and conditions of the permit subject to its jurisdiction.
- DEQ must issue permits, certificates of coverage, and authorizations for the extension of a sewer system to such a facility on the basis of the combined permitted capacity of that facility (under both DEQ and DHHS permits).
- DEQ and DHHS must enter into a memorandum of agreement establishing procedures for the reciprocal recognition of capacity as required by the provision.

Section 29(b) of S.L. 2026-59 (Senate Bill 445) amends the statute governing the engineered option permit (EOP) for on-site wastewater systems to provide that subsurface wastewater dispersal systems receiving effluent with a design daily flow greater than or equal to 25,000 gallons per day proposed to be constructed require a review by DHHS to ensure compliance with all applicable laws and rules. The review may include all supporting engineering, modeling, operational, monitoring, soils, site, hydrogeologic, treatment, and disposal information, as determined by DHHS. Upon completion of a compliance review, if DHHS finds that the proposed system complies with all applicable requirements, it must issue written confirmation accordingly.

DHHS retains authority to inspect, investigate, review, require corrective action, modify, suspend, revoke, rescind, invalidate, or otherwise enforce any permit, approval, authorization, engineered option permit, or capacity determination as authorized by law.

Sections 29(a) and (b) become effective October 31, 2026.

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